

**Notice of Allowability**

Application No.

09/529,206

Examiner

David J. Blanchard

Applicant(s)

WANG ET AL.

Art Unit

1643

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--**

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 29 December 2005.
2. ☒ The allowed claim(s) is/are 3, 5-8, 10, 14, 26, 28-29, 67-77, 83-85 and 87-103 (renumbered as claims 1-41).
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some\* c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).


\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.  
**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☒ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☒ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☒ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

1. ☐ Notice of References Cited (PTO-892)
2. ☒ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO-1449 or PTO/SB/08),  
Paper No./Mail Date 8/4/2000
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413),  
Paper No./Mail Date \_\_\_\_\_
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_

  
SHEELA HUFF  
PRIMARY EXAMINER

### **EXAMINER'S AMENDMENT**

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Julie J. Hong on 3/14/2006.

This Application has been amended as follows:

In claim 88 (renumbered as claim 26), the term "(iv) amino acids 54-62 of SEQ ID NO:4;" has been deleted.

In claim 88 (renumbered as claim 26), the term "(v)" has been deleted and replaced by the term "(iv)".

In claim 88 (renumbered as claim 26), the term "(vi)" has been deleted and replaced by the term "(v)".

In claim 88 (renumbered as claim 26), the term "(vii)" has been deleted and replaced by the term "(vi)".

In claim 88 (renumbered as claim 26), the term "(viii)" has been deleted and replaced by the term "(vii)".

In claim 88 (renumbered as claim 26), the term "(ix)" has been deleted and replaced by the term "(viii)".

In claim 88 (renumbered as claim 26), the term "(x)" has been deleted and replaced by the term "(ix)".

In claim 88 (renumbered as claim 26), the term "(xi)" has been deleted and replaced by the term "(x)".

In claim 88 (renumbered as claim 26), the term "(xii)" has been deleted and replaced by the term "(xi)".

In claim 88 (renumbered as claim 26), the phrase ", wherein the antigen is an epitope of a protein having the amino acid sequence of SEQ ID NO:4" has been deleted.

In the specification at page 1, line 1, the title "NOVEL HUMAN CANCER ANTIGEN-NY ESO-1/CAG-3 AND GENE ENCODING SAME" has been deleted and replaced with the following new title, "CANCER PEPTIDES OF NY-ESO-1/CAG-3".

In the specification, immediately following the title at page 1 of the specification please insert the following new paragraph:

"This patent application is a national stage application of PCT/US98/19609, which was filed on September 21, 1998, which claims priority to U.S. Application No. 60/061,428, which was filed on October 8, 1997."

### **REASONS FOR ALLOWANCE**

2. The following is an examiner's statement of reasons for allowance:

Although the NY ESO-1 antigen of SEQ ID NO:4 is known in the prior art (e.g., Chen et al, Proc. Natl. Acad. Sci. USA, 94(5):1914-1918, March 4, 1997; of record), the

prior art does not teach or fairly suggest the specific NY ESO-1 cancer peptide T cell epitopes of the present claims (i.e., amino acids 53-62 and 127-136 of SEQ ID NO:4). Additionally, the limited scope of cancer peptide variants of amino acids 53-62 of SEQ ID NO:4 presently claimed are adequately disclosed and enabled under the first paragraph of 35 U.S.C. 112 in view of Table 7 at page 50 of the instant specification.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

3. Any inquiry concerning this communication or earlier communications from the examiner should be directed to David J. Blanchard whose telephone number is (571) 272-0827. The examiner can normally be reached at Monday through Friday from 8:00 AM to 6:00 PM, with alternate Fridays off. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Larry Helms, can be reached at (571) 272-0832. The official fax number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should

Application/Control Number: 09/529,206

Page 5

Art Unit: 1643

you have questions on access to the Private PAIR system, contact the Electronic  
Business Center (EBC) at 866-217-9197 (toll-free).

Respectfully,  
David J. Blanchard  
571-272-0827



SHEELA HUFF  
PRIMARY EXAMINER